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PTO/SB/21 (02-04)

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/664,839
		Filing Date	September 16, 2003
		First Named Inventor	Tim Clarot
		Art Unit	1615
		Examiner Name	To be Assigned.
Total Number of Pages in This Submission	40	Attorney Docket Number	33205.1900

ENCLOSURES (Check all that apply)			
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): <input type="checkbox"/> Postcard	<input type="checkbox"/> Remarks RENEWED PETITION being filed pursuant to Dismissal dated 9/14/04. Copy of such is also enclosed.
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Wendy S. Neal, Reg. No. 45,615 SNELL & WILMER, L.L.P.		
Signature			
Date	November 12, 2004		

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Manuel A. Rivera	Date	November 12, 2004
Signature			

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL

## for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** **(\$)** 130.00

**Complete if Known**

Application Number	10/664,839
Filing Date	September 16, 2003
First Named Inventor	Tim Clarot
Examiner Name	To be Assigned
Art Unit	1615
Attorney Docket No.	33205.1900

**METHOD OF PAYMENT (check all that apply)**

Check  Credit card  Money Order  Other  None

Deposit Account:

Deposit Account Number  
19-2814  
Deposit Account Name  
Snell & Wilmer LLP

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
<b>SUBTOTAL (1) (\$)</b>			

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	=
Multiple Dependent	- 3** =	X	=

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2) (\$)</b>		

\*or number previously paid, if greater; For Reissues, see above

**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	130.00
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify) _____			

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3) (\$)** 130.00**SUBMITTED BY**

(Complete if applicable)

Name (Print/Type)	Wendy S. Neal	Registration No. (Attorney/Agent)	45,615	Telephone	602 382-6334
Signature				Date	November 12, 2004

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

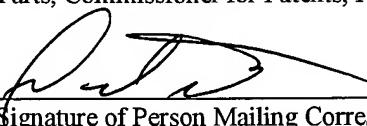


Serial No.: 10/664,839

### CERTIFICATE OF MAILING

I certify that this document and fee is being deposited with the U.S. Postal Service as First Class Mail under 37 C.F.R. §1.8 and is addressed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: November 12, 2004

  
Signature of Person Mailing Correspondence

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Applicant(s):	Tim Clarot, et al.	Docket No.:	33205.1900
Serial No.:	10/664,839	Group Art Unit:	1615
Date Filed:	September 16, 2003	Examiner:	TBA
Title:	<b>SYSTEM FOR DELIVERING A COMPOSITION TO THE NASAL MEMBRANE AND METHOD OF USING SAME</b>	Confirmation No.:	4908

### ***PETITION PURSUANT TO 37 C.F.R. §1.47(a)***

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Commissioner:

Pursuant to 37 C.F.R. §1.47(a), Applicants hereby petition the Commissioner to accept the above captioned application from inventor Tim Clarot on behalf of himself and on behalf of inventor Charles Hensley, who cannot be reached.

This petition is accompanied by or otherwise refers to the following:

- (a) A copy of the Original Declaration showing the signature of all of the available joint inventors with the signature block of the nonsigning inventor, Charles Hensley, left blank;
- (b) A Statement of Facts pursuant to 37 C.F.R. §1.47(a) executed by Kelley A. Rasmussen, a person who has firsthand knowledge of the facts recited therein, and which fully describes the diligent efforts made to contact the unreachable inventor Charles Hensley; and
- (c) A statement of last known address.

11/16/2004 HDEMESS1 00000015 192814 10664839

01 FC:1460 130.00 DA

1594067

**BEST AVAILABLE COPY**

With respect to element (a), the Original Declaration was filed with the Patent and Trademark Office in Applicant's first Petition under 37 C.F.R. §1.47(a) on May 5, 2004. Applicant respectfully requests that such original Declaration be used in conjunction with this new Petition. A copy of said Declaration has been provided for your review.

With respect to element (c), applicants respectfully submit that the last known home address of Charles Hensley, the unreachable inventor, is:

Charles Hensley  
312 North Catalina Avenue, Unit A  
Redondo, California 90277

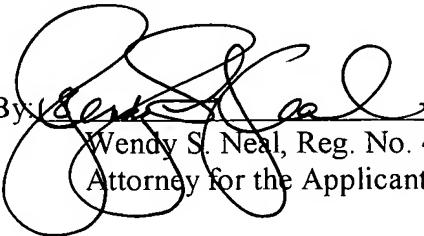
Additionally, with respect to element (c), applicants respectfully submit that the last known business address of Charles Hensley, the unreachable inventor, is:

Charles Hensley  
300 Oceangate Blvd.  
Suite 910  
Long Beach, California 90802

Having satisfied the requirements for filing an application and declaration when an inventor cannot be reached as set forth in 37 C.F.R. §1.47(a) and MPEP §409.03, on behalf of the above listed inventor, the undersigned respectfully requests the Commissioner to grant this petition under 37 C.F.R. §1.47. The undersigned requests a telephone call at (602) 382-6334 if such would in any way facilitate the granting of this petition.

Respectfully submitted,

Date: 12 November 2004

By:   
Wendy S. Neal, Reg. No. 45,615  
Attorney for the Applicants

**SNELL & WILMER L.L.P.**  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-2202  
(602) 382-6334  
(602) 382-6070 - Facsimile



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE  
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SNELL & WILMER

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Paper No: \_\_\_\_\_

CLP

SNELL & WILMER  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX AZ 85004-0001

**COPY MAILED**

SEP 14 2004

**OFFICE OF PETITIONS**

In re Application of  
Clarot, et al. :  
Application No. 10/664,839 :  
Filed: 16 September, 2003 :  
Attorney Docket No. 33205.1900 :

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 10 May, 2004.

The petition is **DISMISSED**.

**NOTES:**

- (1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";
- (2) Thereafter, there will be no further reconsideration of this matter.

**BACKGROUND**

The record indicates:

- the application was filed on 16 September, 2003, without, *inter alia*, a fully executed oath or declaration; and
- on 5 December, 2003, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 5 February, 2004;
- on 10 May, 2004 (over a 5 May, 2004, certificate of mailing), Petitioner filed, *inter alia* (a request and fee for a three- (3-) month extension) an oath/declaration signed by named inventor Tim Clarot, but without the signature of Charles Hensley (Mr. Hensley), a petition under 37 C.F.R. §1.47, and narrative by Petitioner Wendy S. Neal (Reg. No. 45,615) and Kelley A. Rasmussen of Matrixx Initiatives, however, while the statement suggests that a copy of the application may have been provided to Mr. Hensley, it does not appear from the transmittal that the entire application was sent to Mr. Hensley as required by statute and regulation.

### ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

**§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

\* \* \*

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

**§1.63 Oath or declaration.**

(b) In addition to meeting the requirements of paragraph (a) of this section, the oath or declaration must also:

(1) Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted.

And a reasonable effort must be made to ascertain a current or last known address.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.<sup>1</sup>

### CONCLUSION

The materials submitted thus far do not clearly evidence that the entire application was sent to the alleged non-signing inventor after a reasonable effort is made to determine a current valid address for the non-signing inventor. Petitioner should submit a copy of the transmittal letter and should state the address in the petition over Petitioner's signature and registration number.

Therefore, the instant petition hereby is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)<sup>2</sup>  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

---

<sup>1</sup> See: MPEP 409.03(b).

<sup>2</sup> To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at [www.uspto.gov](http://www.uspto.gov).

By FAX: IFW Formal Filings  
(703) 872-9306  
(Effective 28 September, 2004: (571-273-0025)  
ATTN.: Office of Petitions

By hand: Mail Stop: Petition  
Customer Service Window  
Lobby/Room 1B03  
Crystal Plaza Two  
220 20<sup>th</sup> Street S.  
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9199.

(571) 272-3214  
(571)



John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions



PATENT

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

Applicant(s): **Clarot et al.**

Docket No.: **33205.1900**

Serial No.: **10/664,839**

Examiner: **To Be Assigned**

Filed: **September 16, 2003**

Group Art Unit:

Title: **SYSTEM FOR DELIVERING A  
COMPOSITION TO THE NASAL  
MEMBRANE AND METHOD OF  
USING SAME**

Confirmation No.:

DECLARATION FOR PATENT APPLICATION

As a below named inventor(s), I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "**SYSTEM FOR DELIVERING A  
COMPOSITION TO THE NASAL MEMBRANE AND METHOD OF USING SAME**" the specification of which:

[ ] is attached hereto.

[ X ] was filed on September 16, 2003 as Application Serial No. 10/664,839 and  
was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with 37 C.F.R. §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Priority Not Claimed

[ ]

Number	Country	Filing Date
Number	Country	Filing Date

[ ]

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

<u>60/411,463</u>	<u>16 Sep 02</u>
Application Number	Filing Date
Application Number	Filing Date

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s), or §365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

Application Serial No.	Filing Date	Status — Patent, Pending, Abandoned
Application Serial No.	Filing Date	Status — Patent, Pending, Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of inventor: Tim Clarot

Inventor's signature: Tim Clarot Date: 9/18/02

Residence: 1601 East Highland, Unit #1176, Phoenix, Arizona 85016

Citizenship: United States of America

Full name of inventor: Charles Hensley

Inventor's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Residence: 312 North Catalina Avenue, Unit A, Redondo, California 90277

Citizenship: United States of America

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICEPATENT

Applicant(s):	Tim Clarot, et al.	Docket No.:	33205.1900
Serial No.:	10/664,839	Group Art Unit:	1615
Date Filed:	September 16, 2003	Examiner:	TBA
Title:	<b>SYSTEM FOR DELIVERING A COMPOSITION TO THE NASAL MEMBRANE AND METHOD OF USING SAME</b>	Confirmation No.:	4908

***STATEMENT OF FACTS PURSUANT TO 37 C.F.R. §1.47(a)***

I, Kelley A. Rasmussen of Matrixx Initiatives, Inc., and a person who has firsthand knowledge of the facts recited herein, have made numerous attempts to reach joint inventor Dr. Charles Hensley, as set forth below.

On November 14, 2003, I sent a full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures, along with a Declaration for Patent Application and instructions for executing the same, to Dr. Hensley's office address at 200 Ocean Gate, Suite 1560, Long Beach, CA 90802. Copies of the overnight courier airbill along with the tracking details showing non-delivery are attached hereto as Exhibit A.

On November 14, 2003, I sent a second package enclosing a full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures, along with a Declaration for Patent Application and instructions for executing the same, to Dr. Hensley's home address at 312 N. Catalina Ave, Unit A, Redondo, CA 90277. Copies of the overnight courier airbill along with the tracking details showing delivery of the package are attached hereto as Exhibit B.

On or about November 18, 2003, overnight courier confirmation was received indicating that the application and Declaration were received and accepted at Dr. Hensley's home. See Exhibit B.

On or about November 24, 2003, I placed a telephone call to and left a voicemail message at Dr. Hensley's residence to confirm Dr. Hensley's receipt of the application and Declaration.

On or about December 11, 2003, and after numerous telephone call attempts to reach Dr. Hensley, I left a second voicemail message at a new number, (562) 983-0020, regarding the need for Dr. Hensley to execute the Declaration and return it for filing in this application.

On or about December 11, 2003, I sent a third package enclosing a full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures, along with a Declaration for Patent Application and instructions for executing the same, to Dr. Hensley's office address at 300 Oceangate Blvd., Suite 910, Long Beach, CA 90802. Copies of the overnight courier airbill along with the tracking details showing delivery of the package are attached hereto as Exhibit C.

On or about December 11, 2003, I attempted to contact Dr. Hensley via e-mail at [info@prbpharmaceuticals.com](mailto:info@prbpharmaceuticals.com). Copies of the email communication along with its undeliverable message are also enclosed as Exhibit D.

On or about December 12, 2003, overnight courier confirmation was received indicating that the application and Declaration were received and accepted at Dr. Hensley's office by his assistant Cathy Valesco. See Exhibit C.

On or about January 8, 2004, I sent a fourth package enclosing a full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures, along with a Declaration for Patent Application and instructions for executing the same, to Dr. Hensley's home address at 312 N. Catalina Ave, Unit A, Redondo, CA 90277. Copies of the overnight courier airbill along with the tracking details showing delivery of the package are attached hereto as Exhibit E.

On or about January 9, 2004, overnight courier confirmation was received indicating that the application and Declaration were received and accepted at Dr. Hensley's home. See Exhibit E.

On or about January 19, 2004, I again attempted to contact Dr. Hensley via telephone and left a voicemail message.

On or about January 19, 2004, I sent a fifth package enclosing a full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures, along with a Declaration for Patent Application and instructions for executing the same, to Dr. Hensley's office address at 200 Ocean Gate, Suite 1560, Long Beach, CA 90802. A copy of the overnight courier airbill along with the tracking details showing delivery of the package to the Redondo Beach, CA address are attached hereto as Exhibit F.

On or about January 20, 2004, overnight courier confirmation was received indicating that the application and declaration were received and accepted at Dr. Hensley's home. See Exhibit F.

On or about October 14, 2004, I sent a sixth package enclosing a full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures, along with a Declaration for Patent Application and instructions for executing the same, to Dr. Hensley's home address at 312 N. Catalina Ave, Unit A, Redondo, CA 90277. A copy of the transmittal letter and overnight courier airbill along with the tracking details showing delivery of the package to the Redondo Beach, CA address are attached hereto as Exhibit G.

Despite diligent efforts to contact Dr. Hensley via overnight courier, e-mail, and telephone, I have been unable to obtain Dr. Hensley's signature on the Declaration for Patent Application.

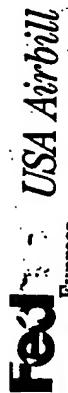
All above statements are true and correct and I confirm that all available steps to locate the whereabouts of the joint inventor, Charles Hensley, have been undertaken. Nonetheless, the nonsigning inventor could not be found or reached.

Respectfully submitted,

Date: 11-10-04

By:   
\_\_\_\_\_  
Kelley A. Rasmussen

1594071



From Please print and attach here.  
Date 11-14-03 Sender's FedEx  
Account Number 2393-9762-0

1 From

FedEx  
Express

8433 3421 2765

Recipient's Name **Kelley Rasmussen**  
Phone (602) 387-5353

2 Your Internal Billing Reference

PRB Pharmaceuticals

1560

Ocean Gate

200

Suite

1560

Honey Beach

CA

90802

State

ZIP

90802

Total Weight

.00

City

Phoenix

State

AZ

ZIP

85016-3489

Dept/Room

1560

Ocean Gate

200

Suite

1560

Honey Beach

CA

90802

State

ZIP

90802

Total Weight

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City

Phoenix

State

AZ

ZIP

85016-3489

Dept/Room

1560

Ocean Gate

200

Suite

1560

Honey Beach

CA

90802

State

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90802

Total Weight

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City

Phoenix

State

AZ

ZIP

85016-3489

Dept/Room

1560

Ocean Gate

200

Suite

1560

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AZ

ZIP

85016-3489

Dept/Room

1560

Ocean Gate

200

Suite

1560

Honey Beach

CA

90802

State

ZIP

90802

Total Weight

.00

City

Phoenix

State

AZ

ZIP

85016-3489

Dept/Room

1560

Ocean Gate

200

Suite

1560

Honey Beach

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ZIP

90802

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State

AZ

ZIP

85016-3489

Dept/Room

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Honey Beach

CA

90802

State

ZIP

90802

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City

Phoenix

State

AZ

ZIP

85016-3489

Dept/Room

1560

Ocean Gate

200

Suite

1560

Honey Beach

CA

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ZIP

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**Tracking number**  
**Ship date**

843334212765  
Nov 14, 2003

**Delivery location**  
**Service type**

LONG BEACH CA  
FedEx 2Day Envelope

**You can also track:**

- [By Alternate](#)
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- [TCN \(Gov't\)](#)

Date/Time	Status
Nov 20, 2003 12:11 pm	Package status
9:19 am	Package status
Nov 19, 2003 6:34 pm	Package status
5:55 pm	Package status
10:13 am	Delivery attempt
8:16 am	On FedEx vehicle for delivery
Nov 18, 2003 5:37 pm	Package status
1:09 pm	Delivery attempt
1:09 pm	Delivery attempt
1:09 pm	Delivery attempt
8:46 am	Delivery attempt
8:46 am	Delivery attempt
8:46 am	Delivery attempt

Location	Comments
SIGNAL HILL CA	Pkg returned to shipper
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed

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**To**

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Tracking number  
843334212765  
Ship date  
Nov 14, 2003

Select another track:  [Next](#) You can also track:  
**• By Alternate**  
**• By Email**  
**• TCN (Gov't)**

Date/Time	Status
Nov 20, 2003	9:19 am Package status
Nov 19, 2003	6:34 pm Package status
	5:55 pm Package status
	10:13 am Delivery attempt
	8:16 am On FedEx vehicle for delivery
Nov 18, 2003	5:37 pm Package status
	1:09 pm Delivery attempt
	1:09 pm Delivery attempt
	1:09 pm Delivery attempt
	8:46 am Delivery attempt
	8:46 am Delivery attempt
	8:46 am Delivery attempt
	7:52 am On FedEx vehicle for delivery

Location	Comments
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Package in FedEx location
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed
SIGNAL HILL CA	Customer not available or Business closed

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## Track Shipments Detailed Results

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 Select another track:  [Previous](#) You can also track:

Tracking number: 843334212776  
 Signed for by: E.HENSLEY  
 Ship date: Nov 14, 2003  
 Delivery date/Time: Nov 18, 2003 11:48 am

Delivered to:  
 Delivery location:  
 Service type:

Recipient:  
 REDONDO BEACH CA  
 FedEx 2Day Envelope

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Date/Time	Status	Location	Comments
Nov 18, 2003 11:48 am	Delivered	REDONDO BEACH CA	
Nov 17, 2003 8:05 am	On FedEx vehicle for delivery	HAWTHORNE CA	
Nov 17, 2003 7:51 pm	Package status	HAWTHORNE CA	Package in FedEx location
	12:25 pm Delivery attempt	REDONDO BEACH CA	Customer not available or Business closed
	8:28 am On FedEx vehicle for delivery	HAWTHORNE CA	
	7:03 am Arrived at FedEx Destination Location	HAWTHORNE CA	
Nov 15, 2003	6:44 pm Arrived at Sort Facility	LOS ANGELES CA	
	3:56 pm Left FedEx Sort Facility	MEMPHIS TN	
	12:36 pm Left FedEx Sort Facility	MEMPHIS TN	
	10:06 am Arrived at Sort Facility	MEMPHIS TN	
	7:52 am Left FedEx Ramp	PHOENIX AZ	
Nov 14, 2003	11:17 pm Package status	PHOENIX AZ	Package in FedEx location
	8:43 pm Package status	PHOENIX AZ	Package in FedEx location

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From:

To:

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**Send email**



11/21/2003

FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643

Telephone: 901-369-3600

Dear Customer:

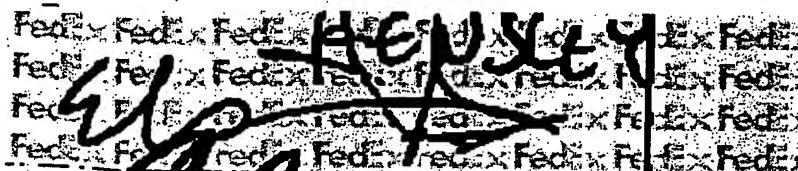
Here is the proof of delivery for the shipment with tracking number 843334212776. Our records reflect the following information.

---

**Delivery Information:**

---

Signed For By: E.HENSLEY



**Delivery Location:** 312 N CATALINA A

**Delivery Date:** November 18, 2003

**Delivery Time:** 1148

---

**Shipping Information:**

---

**Tracking No:** 843334212776

**Ship Date:** November 14, 2003

**Recipient:**

DR CHARLES HENSLEY

312 N CATALINA AVE UNIT A  
REDONDO BEACH, CA 90277  
US

**Shipper:**

KELLEY RASMUSSEN  
MATRIXX INITIATIVES, INC  
2375 E CAMELBACK RD STE 5  
PHOENIX, AZ 850163489  
US

---

**Shipment Reference Information:**

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service  
1-800-Go-FedEx®  
Reference No.: R2003112100101057622




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## Track Shipments Detailed Results

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**Tracking number** 843334211920  
**Signed for by** C.ATHY VALESCO  
**Ship date** Dec 11, 2003  
**Delivery date/Time** Dec 12, 2003 1:23 pm

**Delivery location** LONG BEACH CA  
**Service type** Priority Envelope

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Track other FedEx

- [FedEx Cust. shipments](#)
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Date/Time	Status	Location	Comments
Dec 12, 2003	1:23 pm Delivered	LONG BEACH CA	No signature required - release waiver on file
	1:23 pm Delivered	LONG BEACH CA	No signature required - release waiver on file
	9:30 am Delivery attempt	LONG BEACH CA	Customer not available or Business closed
	8:03 am On FedEx vehicle for delivery	SIGNAL HILL CA	
	7:36 am Arrived at FedEx Destination Location	SIGNAL HILL CA	
	4:08 am Arrived at Sort Facility	LOS ANGELES CA	
	4:05 am Left FedEx Sort Facility	LOS ANGELES CA	
	2:05 am Left FedEx Sort Facility	OAKLAND CA	
	11:03 pm Arrived at Sort Facility	OAKLAND CA	
	8:15 pm Left FedEx Ramp	PHOENIX AZ	
Dec 11, 2003	7:24 pm Arrived at FedEx Ramp	PHOENIX AZ	
	4:36 pm Left FedEx Origin Location	PHOENIX AZ	
	4:23 pm Picked up by FedEx	PHOENIX AZ	

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To

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**Send email**



**FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116**

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643

Telephone: 901-369-3600

12/15/2003

Dear Customer:

Here is the proof of delivery for the shipment with tracking number 843334211920. Our records reflect the following information:

### Delivery Information:

**Signed For By: CATHY VALESCO**



**Delivery Location:** 300 OCEANGATE 910

**Delivery Date: December 12, 2003**

Delivery Time: 1323

### Shipping Information:

Tracking No: 843334211920

Ship Date: December 11, 2003

**Recipient:**

DR CHARLES HENSLEY  
PRB PHARMACEUTICALS INC  
300 OCEANGATE BLVD STE 91  
LONG BEACH, CA 90802  
US

### Spinners

KELLEY RASMUSSEN  
MATRIXX INITIATIVES, INC  
2375 E CAMELBACK RD STE 5  
PHOENIX, AZ 850163489  
US

**Shipment Reference Information:**

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FedEx Worldwide Customer Service  
1-800-Go-FedEx®  
Reference No.: R2003121500113080160

12-11-03

To Whom It May Concern:

I am currently trying to contact Dr. Charles Hensley in regards to patent documents that require his signature. If you could please either have him contact me directly, or supply me with the address where I could Fed-Ex the documents to him for signature, I would greatly appreciate it.

Thank you for your time and consideration,

*Kelley A. Rasmussen*  
Administrative Assistant  
Matrixx Initiatives, Inc.  
2375 E. Camelback Rd.  
Suite 500  
Phoenix, AZ 85016  
602-387-5078

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## Kelley Rasmussen

**From:** System Administrator [postmaster@exchprod.usa.net]  
**Sent:** Thursday, December 11, 2003 10:48 AM  
**To:** Kelley Rasmussen  
**Subject:** Undeliverable:Information request for Dr. Charles Hensley



details.txt (303 B) Information request  
for Dr. Ch...

Your message

**To:** info@prbpharmaceuticals.com  
**Subject:** Information request for Dr. Charles Hensley  
**Sent:** Thu, 11 Dec 2003 10:48:00 -0700

did not reach the following recipient(s):

info@prbpharmaceuticals.com on Thu, 11 Dec 2003 10:48:12 -0700

The e-mail system was unable to deliver the message, but did not report a specific reason. Check the address and try again. If it still fails, contact your system administrator.

<gateout02.mbox.net #5.0.0>

**MATRIX**



Matrixx Initiatives, Inc.  
2375 East Camelback Road  
Suite 500  
Phoenix, AZ 85016

Telephone: 602-387-5353  
Fax: 602-387-4112

January 8, 2004

Dr. Charles Hensley  
312 N. Catalina Ave.  
Unit A  
Redondo, CA 90277

Dear Dr. Hensley,

Enclosed are patent application documents requiring your signature. Please sign and have notarized where indicated. Feel free to contact me via e-mail at [krasmussen@matrixxinc.com](mailto:krasmussen@matrixxinc.com), or call me directly at 602-387-5078 with any questions or concerns. Please return the documents in the enclosed envelope by January 23, 2004. If you cannot have the documents back by then, please contact me.

Thank you for your time and consideration on this matter,

Kelley A. Rasmussen  
Matrixx Initiatives, Inc.  
2375 E. Camelback Rd.  
Suite 500  
Phoenix, AZ 85016  
602-387-5078 (direct line)





1/12/2004

FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643

Telephone: 901-369-3600

Dear Customer:

Here is the proof of delivery for the shipment with tracking number 843334212169. The shipment was released without signature as authorized by the shipper/recipient.

---

**Delivery Information:**

---

**Signed For By:** 3785346  
**Delivery Location:** 312 CATALINA  
**Delivery Date:** January 9, 2004  
**Delivery Time:** 1437

---

**Shipping Information:**

---

**Tracking No:** 843334212169

**Ship Date:** January 8, 2004

**Recipient:**

DR CHARLES HENSLEY

312 N CATALINA AVE UNIT A  
REDONDO BEACH, CA 90277  
US

**Shipper:**

KELLEY RASMUSSEN  
MATRIXX INITIATIVES, INC  
2375 E CAMELBACK RD STE 5  
PHOENIX, AZ 850163489  
US

**Shipment Reference Information:**

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service  
1-800-Go-FedEx®  
Reference No.: R2004011200107698132

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Tracking number	843334212169	Delivered to	Recipient
Signed for by	3785346	Delivery location	REDONDO BEACH CA
Ship date	Jan 8, 2004	Service type	Priority Envelope
Delivery date/Time	Jan 9, 2004 2:37 pm		

Date/Time	Status	Location	Comments
Jan 9, 2004	2:37 pm Delivered	REDONDO BEACH CA	No signature required - release waiver on file
	2:37 pm Delivered	REDONDO BEACH CA	No signature required - release waiver on file
	7:55 am On FedEx vehicle for delivery	HAWTHORNE CA	
	7:30 am Arrived at FedEx Destination Location	HAWTHORNE CA	
	7:30 am Arrived at FedEx Destination Location	HAWTHORNE CA	
3:54 am Left FedEx Sort Facility	OAKLAND CA		
3:33 am Arrived at Sort Facility	LOS ANGELES CA		
Jan 8, 2004	11:27 pm Arrived at Sort Facility	OAKLAND CA	
	8:35 pm Left FedEx Ramp	PHOENIX AZ	
	7:47 pm Arrived at FedEx Ramp	PHOENIX AZ	
	5:31 pm Left FedEx Origin Location	PHOENIX AZ	
	4:15 pm Picked up by FedEx	PHOENIX AZ	

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## Track Shipments Detailed Results

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**Tracking number** 843334212353  
**Signed for by** G.FITZGIVEN  
**Ship date** Jan 19, 2004  
**Delivery date/time** Jan 20, 2004 2:30 pm

**Delivered to**  
**Delivery location**  
**Service type**

**Recept/Fmt desk**  
**REDONDO BEACH CA**  
**Priority Envelope**

Date/time	Status	Location	Comments
Jan 20, 2004	2:30 pm Delivered	REDONDO BEACH CA	Delivered to address other than recipient
	2:30 pm Delivered	REDONDO BEACH CA	Delivered to address other than recipient
	2:30 pm Delivery attempt	REDONDO BEACH CA	Customer not available or Business closed
12:40 pm	On FedEx vehicle for delivery	SIGNAL HILL CA	
11:38 am	Package status	SIGNAL HILL CA	Package at station - awaiting courier
11:37 am	Arrived at FedEx Destination Location	SIGNAL HILL CA	
8:20 am	On FedEx vehicle for delivery	HAWTHORNE CA	
7:47 am	Arrived at FedEx Destination Location	HAWTHORNE CA	
4:16 am	Left FedEx Sort Facility	LOS ANGELES CA	
3:26 am	Arrived at Sort Facility	LOS ANGELES CA	

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multi piece packag  
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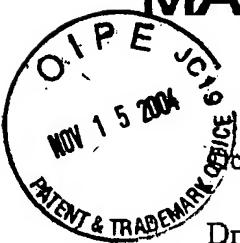
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20 JAN 04  
A2

**MATRIX**

October 14, 2004

Dr. Charles Hensley  
312 N. Catalina Avenue  
Unit A  
Redondo, California 90277

200 Ocean Gate  
Suite 1560  
Long Beach, CA 90277

Re: U.S. Patent Application  
Title: Composition and Method for Moisturizing Nasal Tissue  
Applicant: Zicam, LLC  
Serial No.: 10/243,637  
Filing Date: September 12, 2003

Dear Dr. Hensley,

In reference to U.S. Patent Application No. 10/243,637, entitled "Composition and Method for Moisturizing Nasal Tissue," filed September 12, 2003, enclosed are the following for your review and execution:

1. A full and complete copy of the above-referenced patent application as originally filed, including all pages of the specification, all claims, and all drawing figures;
2. Declaration of Patent Application.

We ask that you please sign and return via the enclosed addressed, prepaid envelope the Declaration of Patent Application by October 22, 2004, for filing with the United States Patent and Trademark Office. The enclosed copy of the patent application, as previously provided to you, is for your file.

Should you have any questions or comments, please call 602-385-8888.

Thank you,

Kelley A. Rasmussen  
Matrixx Initiatives, Inc.  
Zicam, LLC.

Matrixx Initiatives, Inc.  
4742 North 24th Street  
Suite 455  
Phoenix, AZ 85016  
Telephone: 602-385-8888  
Facsimile: 602-385-8850


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Tracking number	791362571989	Reference	Charles Hensley - Legal
Ship date	Oct 14, 2004	Delivery location	Long Beach, CA
		Service type	Standard Envelope
		Weight	0.5 lbs.

You can also track:

- FedEx Traditional Shipments
- By Email Track
- By FedEx Solutions

Status	Delivery exception
--------	--------------------

Date/Time	Activity	Location	Details	
Oct 20, 2004 7:46 PM	Package returned to shipper	SIGNAL HILL, CA	Return tracking number: <u>636058096992</u>	<a href="#">Wrong Address?</a> Reduce future mistak <a href="#">FedEx Address Che</a>
5:09 PM	At local FedEx facility	SIGNAL HILL, CA		<a href="#">Shipping Freight?</a> FedEx has <u>LTL</u> , air <u>surface and air exp</u> multi piece packag and ocean <u>freight</u> .
Oct 19, 2004 8:07 AM	At local FedEx facility	SIGNAL HILL, CA		
Oct 18, 2004 5:47 PM	At local FedEx facility	SIGNAL HILL, CA		
10:45 AM	Delivery exception	SIGNAL HILL, CA	Incorrect address	
7:46 AM	On FedEx vehicle for delivery	SIGNAL HILL, CA		
Oct 16, 2004 8:03 AM	At local FedEx facility	SIGNAL HILL, CA		
Oct 15, 2004 3:20 PM	At local FedEx facility	SIGNAL HILL, CA		
3:19 PM	Delivery exception	SIGNAL HILL, CA	Customer not available or business closed	
12:14 PM	On FedEx vehicle for delivery	SIGNAL HILL, CA		
11:52 AM	Delivery exception	SIGNAL HILL, CA	Package at station, arrived after courier dispatch	
11:50 AM	At local FedEx facility	SIGNAL HILL, CA		
6:57 AM	Delivery exception	HAWTHORNE, CA	Incorrect address	
3:49 AM	Departed FedEx location	OAKLAND, CA		
3:47 AM	Arrived at FedEx location	LOS ANGELES, CA		
Oct 14, 2004 11:54 PM	Arrived at FedEx location	OAKLAND, CA		
4:01 PM	Left origin	PHOENIX, AZ		
4:00 PM	Picked up	PHOENIX, AZ		
3:58 PM	Package data transmitted to FedEx; package not in FedEx possession			

<input type="checkbox"/> <a href="#">Signature proof</a>	<input type="checkbox"/> <a href="#">Track more shipments</a>
--	---

From: Origin ID: (602)385-8888  
 Matrix Initiatives Inc  
 MATRIXX INITIATIVES, INC  
 4742 North 24th Street  
 Suite 455  
 PHOENIX, AZ 85016



Ship Date: 14OCT04  
 Actual Wgt: 1 LB  
 System#: 2523460/INET1900  
 Account#: S \*\*\*\*\*

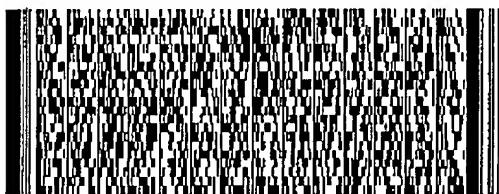
REF: Charles Hensley - Legal



Delivery Address Bar Code

SHIP TO: (310)937-1405 BILL SENDER  
 Dr. Charles Hensley

200 Ocean Gate  
 Suite 1560  
 Long Beach, CA 90277



**STANDARD OVERNIGHT**

TRK# 7913 6257 1989 FORM 0201

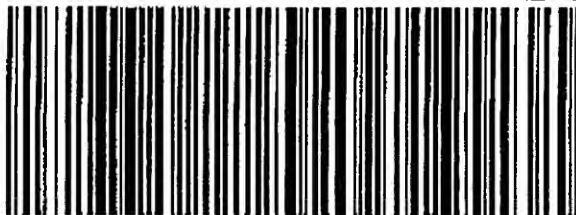
**FRI**

Deliver By:  
 15OCT04

**LAX A2**

90277 -CA-US

**WZ AVXA**



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Domestic Trace  
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Memphis, TN 38116

U.S. Mail; PO Box 727  
Memphis, TN 38194-4843

Telephone 801-369-3600



November 11, 2004

**KELLY RASMUSSEN**  
(602) 385-8850

Dear KELLY RASMUSSEN:

Our records reflect the following delivery information for the shipment with the tracking number 792113421116. The information is incomplete and we regret the inconvenience this may cause. However, as stated in the FedEx Service Guide, we assume no liability for our inability to provide a copy of the delivery record.

Delivery Information:

Signed For By: E.HENSLEY

Delivered to: 312 N. CATALINA AVENUE

Delivery Date: October 15, 2004

Delivery Time: 01:18 PM

Shipping Information:

Shipment Reference Information: CHARLES HENSLEY -LEGAL

Tracking No: 792113421116

Ship Date: October 14, 2004

Shipper: MATRIXX INITIATIVES INC  
MATRIXX INITIATIVES, INC  
4742 NORTH 24TH STREET  
SUITE 455  
PHOENIX, AZ 85016  
US

Recipient: DR. CHARLES HENSLEY  
312 N. CATALINA AVENUE  
UNIT A  
REDONDO BEACH, CA 90277  
US

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service  
1-800-Go-FedEx (1-800-463-3339)  
Reference No: R2004111100158544382

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